

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI**

504 Tavern LLC, et al.,)
Plaintiffs,) Case No. 4:14-cv-115
v.)
Vitti, et al.,)
Defendants.)

DEFENDANT PHILIPP VITTI'S MOTION TO DISMISS

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Defendant Philipp Vitti (“Vitti”) respectfully moves the Court to dismiss the Complaint for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. Complete diversity does not exist in that Vitti is a citizen of the same state as one of the Plaintiffs. Additionally, the Complaint presents no federal question because Count VIII for “Civil Conspiracy RICO Violation” fails to state a claim upon which relief can be granted. Dismissal is warranted under Federal Rule of Civil Procedure 12(b)(1), 12(b)(6) and 28 U.S.C. Sections 1331 and 1332.

In further support of this Motion, Vitti files his Suggestions in Support simultaneously herewith.

WHEREFORE, for the reasons stated herein and in his accompanying Suggestions in Support, defendant Philipp Vitti respectfully requests the Court dismiss Count VIII of Plaintiffs' Complaint with prejudice for failure to state a claim upon which relief can be granted, and dismiss Plaintiffs' remaining Complaint for lack of subject matter jurisdiction, and for all other such relief deemed just and proper under the circumstances.

Dated: March 14, 2014

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 14th day of March, 2014, a true and accurate copy of the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record:

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